

THE HONORABLE JOHN C. COUGHENOUR

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SCOTT AND KATHRYN KASEBURG, *et al*,

Plaintiffs,

v.

PORT OF SEATTLE, a municipal corporation; PUGET SOUND ENERGY, INC., a Washington for profit corporation and KING COUNTY, a home rule charter county, and CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, a municipal corporation,

Defendants.

NO. 14-cv-00784-JCC

DECLARATION OF RANDALL THOMSEN
IN SUPPORT OF DEFENDANT PORT OF
SEATTLE'S OPPOSITION TO
PLAINTIFFS' "MOTION FOR
DECLARATORY JUDGMENT"

I, Randall Thomsen, declare as follows:

1. I am one of the attorneys for the defendant Port of Seattle in the above captioned action, am over age 18, and competent to be a witness. I am making this declaration based on facts within my own personal knowledge.

2. Attached as **Exhibit 1** to my declaration is a true and correct copy of the "BNSF Corridor Preservation Study, Final Report, May 2007," excluding appendices, prepared for the Puget Sound Regional Council.

DECLARATION OF RANDALL THOMSEN IN
SUPP. OF DEF. PORT OF SEATTLE'S OPPOS.
TO PLFFS.' "MOT. FOR DECL. J. (14-cv-00784-
JCC) -1

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1 3. Attached as **Exhibit 2** to my declaration is a true and correct copy of an unsigned
2 version of the "Memorandum of Understanding" between King County, the Port of Seattle, and
3 BNSF Railway Company, dated November 2007.

4 4. Attached as **Exhibit 3** to my declaration is a true and correct copy of the
5 "Memorandum of Understanding Regarding Acquisition of Woodinville Subdivision" between
6 King County, Sound Transit, the Port of Seattle, the City of Redmond, the Cascade Water
7 Alliance, and Puget Sound Energy, dated November 5, 2009. A copy of the memorandum was
8 produced in response to discovery in this matter.

9 5. Attached as **Exhibit 4** to my declaration are true and correct copies of the
10 "Purchase and Sale Agreement – Woodinville Subdivision – North Rail Line" and the "Donation
11 Agreement – Woodinville Subdivision – South Rail Line," excluding exhibits, between BNSF
12 Railway Company, the Port of Seattle, and King Count, dated May 12, 2008. Copies of the
13 purchase and sale and donation agreements were produced in response to discovery in this
14 matter.

15 6. Attached as **Exhibit 5** to my declaration is a true and correct copy of the "Petition
16 for Exemption" filed by BNSF Railway Company on September 8, 2008.

17 7. Attached as **Exhibit 6** to my declaration is a true and correct copy of the
18 "Request of King County, Washington for Interim Trail Use Pursuant to 49 C.F.R. 1152.29."

19 8. Attached as **Exhibit 7** to my declaration is a true and correct copy of the
20 "Decision and Notice of Interim Trail use or Abandonment" issued by the Surface
21 Transportation Board on October 27, 2008.

22 9. Attached **Exhibit 8** to my declaration is a true and correct copy of the "Notice of
23 Consummation of Trail Use Agreement" filed by King County with the Surface Transportation
24 Board on March 8, 2010.

1 10. Attached **Exhibit 9** to my declaration is a true and correct copy of a printout from
2 the Port of Seattle Website related to the Eastside Rail Corridor.

3 11. Attached **Exhibit 10** to my declaration is a true and correct copy of “Exhibit F –
4 List of Third Party Leases/Licenses” to the Donation Agreement (attached as Exhibit 5). A copy
5 of the exhibit was produced in response to discovery in this matter.

6 12. Attached **Exhibit 11** to my declaration is a true and correct copy of the “Real
7 Estate Purchase and Sale Agreement” between the Port of Seattle and the City of Redmond,
8 dated June 22, 2010. A copy of the agreement was produced in response to discovery in this
9 matter.

10 13. Attached **Exhibit 12** to my declaration is a true and correct copy of the
11 “Easement Purchase and Sale Agreement” between the Port of Seattle and Puget Sound Energy,
12 Inc., dated December 20, 2010. A copy of the agreement was produced in response to discovery
13 in this matter.

14 14. Attached **Exhibit 13** to my declaration is a true and correct copy of the “Real
15 Estate Purchase and Sale Agreement” between the Port of Seattle and Central Puget Sound
16 Regional Transit Authority, also known as Sound Transit, dated August 18, 2011. A copy of the
17 agreement was produced in response to discovery in this matter.

18 15. Attached **Exhibit 14** to my declaration is a true and correct copy of the “Real
19 Estate Purchase and Sale Agreement” between the Port of Seattle and the City of Kirkland, dated
20 January 5, 2012. A copy of the agreement was produced in response to discovery in this matter.

21 16. Attached **Exhibit 15** to my declaration is a true and correct copy of the “Real
22 Estate Purchase and Sale Agreement” between the Port of Seattle and King County, dated
23 February 8, 2013. A copy of the agreement was produced in response to discovery in this
24 matter.

17. Attached **Exhibit 16** to my declaration is a true and correct copy of the “Real Estate Purchase and Sale Agreement” between the Port of Seattle and Snohomish County, dated February 15, 2014. A copy of the agreement was produced in response to discovery in this matter. I understand that, while the agreement has been executed, a closing of the transaction has not occurred.

18. Attached **Exhibit 17** to my declaration is a true and correct copy of Interrogatory No. 14, and Requests for Production Nos. 6, 13, and 16, and plaintiff Scott and Kathryn Kaseburg's responses thereto, as excerpted from "Plaintiffs' Response to Defendant Port of Seattle's First Set of Interrogatories and Requests for Production to Plaintiffs." Each plaintiff responded to the identical discovery requests in the identical manner.

19. Attached **Exhibit 18** to my declaration is a true and correct copy of the “Plaintiffs’ Rule 26(a)(1) Initial Disclosures.”

20. Attached **Exhibit 19** to my declaration is a true and correct copy of excerpts from the “Subclass Two Plaintiffs’ Reply to Defendants’ Opposition” to plaintiffs’ motion to strike filed in *Haggart v. United States*.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 2nd day of February, 2015, in Seattle, Washington.

Keith Turner

Randall Thomsen

CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED this 2nd day of February, 2015 at Seattle, Washington.

s/ Lynn Van Eyck
Lynn Van Eyck